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COMMITTEE ON THE RIGHTS OF THE CHILD

Eleventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Republic of Korea

1. The Committee considered the initial report of the Republic of Korea (CRC/C/8/Add.21) at its 266th, 267th and 268th meetings (CRC/C/SR.266-268), held on 18 and 19 January 1996, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for engaging, through a high-level and multidisciplinary delegation, in an open and fruitful dialogue with the Committee. It welcomes the written information submitted by the delegation in reply to the questions included in the list of issues, as well as the additional information provided by the State party following the dialogue held with the Committee.

B. Positive aspects

3. The Committee notes with satisfaction that the Convention is directly applicable in the domestic legal order and can be invoked before the courts.

4. The Committee welcomes the development of a national plan of action for children and its incorporation in the Seventh Five-Year Social-Economic Development Plan for 1992-1996, as well as the recent establishment of the National Committee on the Rights of the Child.

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* At the 287th meeting, held on 26 January 1996.

5. The Committee notes with satisfaction the importance attached by the Government to education, considered as the "driving force of social and economic development".

6. The Committee also welcomes the openness, reflected in the written replies and reaffirmed by the delegation during the dialogue, towards considering the possibility of withdrawing the reservations entered by the State party to the Convention. The Committee is encouraged by the revision of the Civil Code that is being undertaken with the aim of incorporating the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis. It is also encouraged by the fact that, as stated by the delegation, such a measure will enable the State party to withdraw its reservation pertaining to article 9, paragraph 3 of the Convention.

C. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes the difficulties facing the Republic of Korea in the present period of political and economic transition. The efforts to secure rapid economic growth have not always been matched by an appropriate level of realization of economic, social and cultural rights, in particular in relation to children belonging to the most disadvantaged groups affected by growing poverty. The fact that the country has only recently emerged from a period of military rule has had a negative impact on the enjoyment of the fundamental rights and freedoms of children.

D. Principal subjects of concern

8. The Committee is of the view that the reservations made by the State party to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph 2 (b) (v) raise questions about their compatibility with the principles and provisions of the Convention, including the principles of the best interests of the child and respect for the views of the child.

9. The Committee is concerned at the insufficient measures adopted to ensure a permanent and effective coordinating and monitoring mechanism. The Committee also notes the insufficient measures taken to gather reliable quantitative and qualitative data on all areas covered by the Convention, to evaluate progress achieved and to assess the impact of policies adopted on children, in particular in relation to the most vulnerable groups of children.

10. The Committee is concerned about the insufficient measures taken to ensure that the principles and provisions of the Convention are widely known to children and adults. The lack of adequate training on the contents of the Convention of the various professional groups working with and for children, including teachers, social workers, judges, law enforcement officials, psychologists and health personnel, is also noted with regret.

11. As regards the implementation of article 4 of the Convention, the Committee notes with concern the inadequacy of measures taken to ensure the implementation of children's economic, social and cultural rights to the maximum extent of available resources. Insufficient attention has been

paid in this regard to the areas of the social and human development of children and to the needs of the most vulnerable groups of children.

12. The Committee is also concerned that the basic principles of the Convention, in particular the provisions of its articles 2, 3 and 12, have not been adequately reflected in legislation, policies and programmes. Insufficient measures have been adopted to create awareness of these basic values of the Convention with a view to changing the prevailing consideration and treatment of the child simply "as a mini-adult or immature adult", as recognized in the report. The Committee notes with concern the persistent discriminatory attitudes affecting girls - including in relation to the minimum age for marriage - disabled children and children born out of wedlock.

13. The Committee notes with concern the insufficient assistance provided for families to assume their responsibilities in the protection of children's rights.

14. The Committee expresses its concern at the insufficient measures adopted, including of a legal nature, to ensure effective implementation of the civil rights and fundamental freedoms of children, such as in relation to the right to a nationality, freedom of expression, thought, conscience and religion, as well as to freedom of association and peaceful assembly. The threats to national security invoked by the Government have hampered the enjoyment of such fundamental freedoms.

15. The Committee is of the view that the approach of the State party in the field of adoption and the prevailing system of dissolution of adoption, raises questions as to its compatibility with the Convention, including in relation to the principle of the best interests of the child as the paramount consideration, as well as to the legal safeguards established by article 21. In this regard, the Committee is particularly concerned at the insufficient measures taken to ensure that adoption is authorized by the competent authorities, on the basis of all pertinent and reliable information and of the informed consent of all persons concerned, including the child. The high rate of inter-country adoption is also of concern to the Committee. With regard to child abuse and domestic violence, the Committee is concerned at the lack of preventive policies and of adequate reporting mechanisms. Abandonment of children, the high rate of child headed families and the persistence of corporal punishment, widely envisaged by parents and teachers as an educational measure, are other subjects of concern to the Committee.

16. The Committee is concerned at the insufficient consideration given in the education system to the aims of education as reflected in article 29 of the Convention. The highly competitive nature of the education system risks hampering the development of the child to the fullest potential of his or her abilities and talents and the child's preparation for responsible life in a free society.

17. Concern is also expressed at the insufficient measures adopted, including in the field of legal reform, to prevent situations of child labour. In this regard, the discrepancy between the age for completion of compulsory education and the minimum age for admission to employment is noted with particular concern.

18. The Committee is also concerned about the existing juvenile justice system and its lack of compatibility with the Convention, including articles 37, 39 and 40.

E. Suggestions and recommendations

19. The Committee encourages the Government to continue to consider reviewing its reservations to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph (b) (v), with a view to withdrawing them.

20. The Committee recommends that the Government strengthen its efforts aimed at promoting advocacy and creating awareness and understanding of the principles and provisions of the Convention in the light of its article 42. The Committee suggests that the Government develop public campaigns with a view to addressing effectively the problem of persisting discriminatory attitudes, in particular towards girls, disabled children and children born out of wedlock, and that it adopts pro-active measures to improve the status and protection of these groups of children.

21. The Committee also encourages the State party to ensure training activities on the Convention to professional groups working with and for children, including teachers, social workers, judges, law enforcement officers, health personnel and officials entrusted with the task of ensuring data collection in the areas covered by the Convention. In the spirit of the United Nations Decade for Human Rights Education, the Committee further encourages the Government to give consideration to the incorporation of the rights of the child in the school curricula.

22. The Committee encourages the Government to pursue its efforts in order to ensure full compliance of its national legislation with the provisions and principles of the Convention, including non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12). The Committee particularly recommends that legislative measures be adopted with a view to ensuring an equal minimum age for marriage for girls and boys, in the light of article 2; ensuring the basic rights of all disabled children, in particular the right to education, in the light of article 23; abolishing any discrimination towards children born out of wedlock; preventing any risk of statelessness for a child born to a Korean mother; clearly prohibiting any form of corporal punishment; and raising the minimum age for employment with a view to adjusting it to the age of compulsory education. In the field of national and inter-country adoption, the Committee encourages the State party to undertake comprehensive legal reform to ensure full compatibility with the principles and provisions of the Convention, as well as to consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.

23. The Committee recommends that a permanent and multidisciplinary mechanism be developed for coordination and monitoring of the implementation of the Convention, both at the national and local levels, in urban and rural areas. The Committee encourages the State party to give further consideration to the establishment of an ombudsperson for children or any equivalent independent complaint and monitoring mechanism. The Committee further encourages the promotion of a closer cooperation with non-governmental organizations.

24. The Committee also recommends that the system of data collection be improved and appropriate disaggregated indicators identified with a view to addressing all areas covered by the Convention and evaluating progress achieved, with due regard being paid to the situation of children belonging to the most disadvantaged groups.

25. The Committee strongly recommends that the Government of the Republic of Korea pay particular attention to the full implementation of article 4 of the Convention and undertake all appropriate measures to the maximum extent of available resources for the implementation of the economic, social and cultural rights of children. Special attention should be paid to the situation of the most disadvantaged groups of children in the light of the principles of non-discrimination and the best interests of the child.

26. The Committee considers that greater efforts should be made to promote the participation of children in family, school and social life, as well as the effective enjoyment of their fundamental freedoms, including the freedom of opinion, expression and association, which should be subject only to the restrictions provided by the law and which are necessary in a democratic society.

27. The Committee encourages the State party to adopt further measures to ensure assistance for the family to ensure its responsibilities in the upbringing and development of the child, in particular in the light of articles 18 and 27 of the Convention. Special attention should be paid to the prevention of child abandonment, as well as to the prevention of, and appropriate assistance to, child-headed families.

28. In the area of child abuse and domestic violence, the Committee recommends that the State adopt further measures to prevent such situations, and to protect and ensure appropriate physical recovery and social reintegration of children affected thereby. Consideration should be given to the establishment of a system of early detection, surveillance and referral.

29. The Committee encourages the State party to review its education policy, with a view to reflecting fully the aims of education set out in article 29 of the Convention.

30. In the area of child labour, the Committee encourages the State party to adopt appropriate measures with a view to reflecting fully the Convention, in particular article 32, in its legislation and practice. It recommends that consideration be given to the ratification of ILO Convention No. 138 on minimum age for admission to employment and encourages the State party to consider pursuing such action in consultation with ILO.

31. The Committee recommends that the State party envisage undertaking a comprehensive reform of the system of juvenile justice in the spirit of the Convention, in particular articles 37, 39 and 40, and of other United Nations standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to the consideration of deprivation of liberty only as a measure of last resort and for the shortest period of time, to the protection of the rights of children deprived of

liberty, to due process of law and to the full independence and impartiality of the judiciary. Training programmes on the relevant international standards should be organized for all those professionals involved with the system of juvenile justice. The Committee would like to suggest that the Government of the Republic of Korea consider seeking international assistance in this area of the administration of juvenile justice, from the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch.

32. The Committee recommends that the report submitted by the State party, the summary records of its consideration and the concluding observations of the Committee be disseminated as widely as possible within the country.